Transportation Appeal Tribunal of Canada

2008-2009

Report on Plans and Priorities

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Minister of Transport, Infrastructure and Communities

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Section I: Overview

1.1 Chairperson's Message

I am pleased to present the 2008-2009 Report on Plans and Priorities of the Transportation Appeal Tribunal of Canada, formerly the Civil Aviation Tribunal. The Transportation Appeal Tribunal of Canada is a quasi-judicial body established in June 2003 (S.C. 2001, c. 29) to provide an independent process of review of administrative and enforcement actions – including the suspension and cancellation of licences, certificates and other documents of entitlement, the issuance of railway orders, and the imposition of administrative monetary penalties – taken under various federal transportation Acts.

The Tribunal conducts its hearings at various locations in Canada in an open and impartial manner consistent with procedural fairness and the rules of natural justice. It adjudicates matters that will have a serious impact on the livelihood and operations of the aviation, rail and marine communities in 2008-2009. Given its itinerant structure and process for conducting hearings, the Tribunal is readily accessible to those communities.

The requisite knowledge and experience of Tribunal members enhances their independence by enabling them to understand and assess the validity of the various administrative transportation actions. It also increases the confidence placed in the decisions as an expert quasi-judicial review body.

There will be a significant increase in the Tribunal's workload in the months ahead. Following the addition of the marine sector to the Tribunal's mandate in 2003, the regulations respecting the *Marine Transportation Security Act* are now in force and the *Administrative Monetary Penalty Regulations* pursuant to the *Canada Shipping Act 2001* will be effective at the beginning of March, 2008. Accordingly, preparations for extensive training programs for part-time members are now underway.

As well, with the addition of Tribunal jurisdiction to review the refusal to issue or amend Canadian aviation documents, the number of applications requiring determination of disputed jurisdictional issues has increased the Tribunal's workload. It is anticipated that key jurisprudence establishing Tribunal jurisdiction for a defined list of Canadian aviation documents will emerge over the next couple of years.

Thus, the direction for this Tribunal for the years ahead will be its challenge to contain its growing mandate to current standards to ensure that the Tribunal continues to be regarded as one of government's best practices. Having recognized the commitment of members and staff to its mandate, I am confident that the Tribunal will continue to successfully meet its challenges.

Faye Smith
Chairperson

1.2 Management Representation Statement

I submit for tabling in Parliament the 2008-2009 Report on Plans and Priorities for the Transportation Appeal Tribunal of Canada.

This document has been prepared based on the reporting principles contained in the *Guide for the Preparation of Part III of the 2008-2009 Estimates: Reports on Plans and Priorities and Departmental Performance Reports*:

- it adheres to the specific reporting requirements outlined in the Treasury Board of Secretariat guidance;
- it is based on the department's Strategic Outcome and Program Activity Architecture that were approved by the Treasury Board;
- it presents consistent, comprehensive, balanced and reliable information;
- it provides a basis of accountability for the results achieved with the resources and authorities entrusted to it; and
- it reports finances based on approved planned spending numbers from the Treasury Board Secretariat.

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Faye Smith
Chairperson

1.3 Summary Information

Raison d'être

The mission of the Transportation Appeal Tribunal of Canada is to review the Minister of Transport's enforcement and licensing decisions through a two-level hearing process. The Tribunal has a commitment to openness and cooperation and is mandated to conduct informal, expeditious and fair hearings.

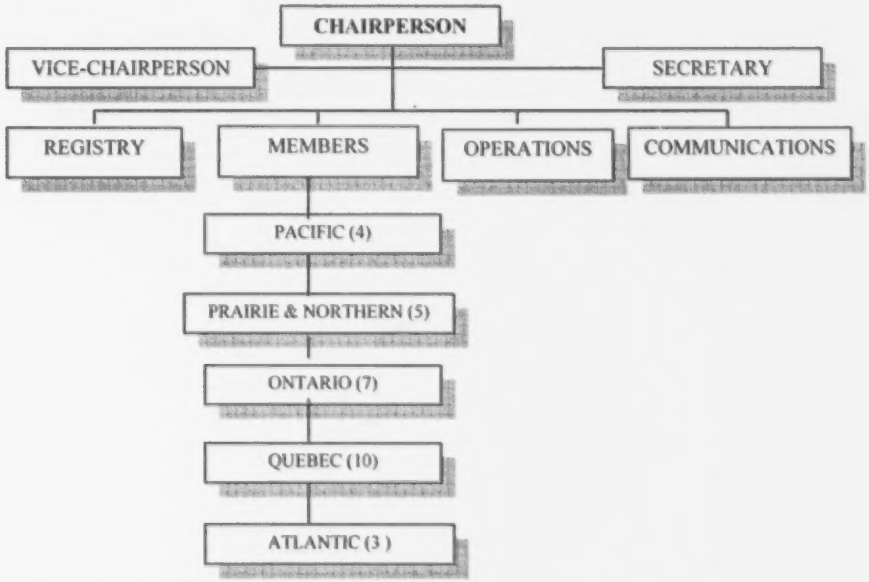
Organizational Information

The Chairperson is the Chief Executive Officer of the Tribunal and has supervision over and direction of the work and staff of the Tribunal including:

- apportionment of work among its members;
- assignment of members to hear matters brought before the Tribunal;
- conduct of the work of the Tribunal; and
- management of its internal affairs.

The Tribunal reports to Parliament through the Minister of Transport.

The Chairperson, Vice-Chairperson and immediate staff account for 12 full-time equivalents. Twenty-nine part-time members were in office during 2006-2007. Members are drawn from across Canada and are appointed by Order in Council on the basis of their knowledge and expertise. At the end of 2007, seven part-time members were appointed, six in aeronautics and one in marine sectors.



The lower half of the organization chart displays the distribution of part-time members by region. All members report to the Chairperson.

Table 1: Voted and Statutory Items listed in Main Estimates

2008-2009			(Thousands of dollars)
Vote or Statutory Item	**Truncated Vote or Statutory Wording**	**2008-2009 Main Estimates**	**2007-2008 Main Estimates**
70	Program expenditures	1 213.0	1 207.0 *
(S)	Contributions to employee benefit plans	121.0	126.0
	Total for Agency	**1 334.0**	**1 333.0**

Table 2: Departmental Planned Spending and Full Time Equivalents

(Thousands of dollars)	Forecast Spending 2007-2008	**Planned Spending 2008-2009**	Planned Spending 2009-2010	Planned Spending 2010-2011
Review and appeal hearings				
Budgetary main estimates (gross)	1 333.0	1 334.0	1 334.0	1 334.0
Total main estimates	1 333.0	**1 334.0**	**1 334.0**	**1 334.0**
Adjustments:				
Supplementary estimates				
Carry forward	60.0			
Additional funding from Transport Canada**	199.2			
Compensation for Salary Adjustments	5.0			
Policy framework for airports		100.0	100.0	100.0
Total adjustments	264.2	**100.0**	100.0	100.0
Total planned spending	1 597.2	**1 434.0**	1 434.0	1 434.0
Plus: cost of services received without charge	230.2	**225.7**	224.6	224.6
Total agency spending	1 827.4	**1 659.7**	1 658.6	1 658.6
Full-time equivalents	12	**12**	12	12

*Restated to balance last year main estimate

** Funding was requested from Transport Canada to hire additional employees and to provide training sessions for newly-appointed part-time members.

Financial Resources
(Thousands of dollars)

2008-2009	2009-2010	2010-2011
1 334.0	1 334.0	1 334.0

Human Resources
Full-time equivalent (FTEs)

2008-2009	2009-2010	2010-2011
12	12	12

Agency Priorities

Description	Type
Priority 1 : Hold hearings expeditiously and informally	Ongoing
Priority 2 : Business Continuity Plan	New
Priority 3: Increase awareness of the Transportation Appeal Tribunal of Canada with respect to its mission, mandate, role and results achieved	New

Program Activity by Strategic Outcome

		Planned Spending (Thousands of dollars)			
	Expected Results	**2008–2009**	**2009–2010**	**2010–2011**	**Contributes to the Following Priority**
Strategic Outcome: To provide Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation Acts reviewed by an independent body.					
Program Activity : review and appeal hearings	Access to an independent assessment governed by considerations of natural justice	1 304.0	1 334.0	1 334.0	**Priority 1:** Hold hearings expeditiously and informally
	Plans, measures and arrangements are in place to ensure the continuous delivery of critical services, which permits the organization to recover its data and assets	10.0	0.0	0.0	**Priority 2:** Business Continuity Plan
	Improved awareness and better information among the Transportation community and key stakeholders with respect to the Tribunal's mandate, services and decisions	20.0	0.0	0.0	**Priority 3:** Increase awareness of the Transportation Appeal Tribunal of Canada with respect to its mission, mandate, role and results achieved

1.4 Agency Plans and Priorities

The Transportation Appeal Tribunal of Canada replaced the Civil Aviation Tribunal which was established under Part IV of the *Aeronautics Act* in 1986. On the recommendation of the Minister of Transport, pursuant to section 73 of the *Transportation Appeal Tribunal of Canada Act*, assented to on December 18, 2001, being chapter 29 of the Statutes of Canada, 2001, the Act officially came into force on June 30, 2003. The Transportation Appeal Tribunal of Canada, a multi-modal tribunal, is available to the air, rail and marine sectors. The *Transportation Appeal Tribunal of Canada Act* amends the *Aeronautics Act*, the *Canada Shipping Act*, the *Marine Transportation Security Act* and the *Railway Safety Act* to establish the jurisdiction and decision-making authorities of the Tribunal under those Acts. The Tribunal's jurisdiction extending to the rail sector is expressly provided for under the *Aeronautics Act* and the *Railway Safety Act* (section 2 of the *Transportation Appeal Tribunal of Canada Act*). The mandate of the Tribunal expands to act as a multi-modal review body for administrative licensing and enforcement actions taken under various federal transportation Acts. Increased jurisdiction for the Tribunal will enlarge its caseload considerably over the next few years, but the business line will not be amended. The office of the Tribunal is located in the National Capital Region.

The Tribunal's yearly seminars ensure a trained membership through updates and discussions of legislative changes. The interaction of members and role play scenarios assist the membership in achieving quality and consistency in making and in writing its decisions. A panel discussion takes place with representatives from the transportation community to provide feedback to the Tribunal on services delivery to clients.

The Tribunal strives to provide determinations with written reasons quickly, allowing Transport Canada and document holders to better understand the outcome of the matter and, where applicable, to make a more enlightened decision as to the exercise of their right to appeal. In 2006-2007, the average lapsed time between the conclusion of a review hearing and the issuance of a determination was 115 days for a review and 76 days for an appeal. Increased number of hearing days and increasing case complexity provide justification for the additional time needed by members in providing written reasons.

Small Agency Challenges

Like all federal institutions, the Tribunal faces the challenge of carrying out its statutory responsibility and dealing with the heavy burden of transparent and accountable reporting, while at the same time being careful when spending public funds. The Tribunal has adopted efficient business practices, high standards for service delivery and transparent reporting on its activities and results.

As a very small agency, the Tribunal faces a particular challenge in operating in that there are a myriad of tasks for a small staff. This is compounded by the fact that the workload is unpredictable and changing. To face these particular challenges, the Tribunal has always followed the practice of contracting to government departments and the private sector for many of the services not required on a full-time basis. The Tribunal also selects staff who have multiple skills, are flexible, and are interested in having a variety of responsibilities and taking initiative. Furthermore, Tribunal members are appointed on a part-time basis, a fact which adds to our economic efficiency as their services are on an as needed basis. To this end, the Tribunal has a high level of expertise at reasonable cost.

Human Resources

While staff turnover is not great in absolute numbers, for a small organization such as the Tribunal, with just 12 staff members, the departure of even two or three personnel over the course of a year can have a significant impact on carrying through with that year's plans and priorities – corporate memory is lost, key functions must be added to the responsibilities of others in the organization, and the process of recruiting and appointing replacement staff can take a number of months. Therefore, the Tribunal will continue a strategic approach to planning of human resources to ensure continuity and stability of service delivery. Staffing decisions will be linked to planning priorities through updating the Human Resources Plan on regular basis.

As an additional measure to enhance the quality of the work environment at the Tribunal, a learning framework has been established for employees, and individual learning plans have been formalized, including a monitoring system to ensure employees are advancing toward their stated goals.

Priorities for 2008-2009

The Tribunal has identified three priorities for 2008-2009. All are strategic investments aimed at finding ways to enhance the Tribunal's relevance and contribution to transportation safety in Canada and to strengthen the organization from within.

1) Access to an Independent Assessment Governed by Considerations of Natural Justice

To this end, the Tribunal plans to:

- ensure that its members and staff maintain a high level of expertise;
- apply a decision-making process that is governed by the rules of fairness and the regulations and legal principles applicable to the case;
- process each request as quickly as possible;
- make all of its decisions publicly available; and
- act as mediator and facilitator for earlier resolution of disputes.

The results will be:

- the Tribunal, a competent and independent body, will deal fairly, efficiently and in a timely and transparent manner with requests; and
- services will be available to resolve transportation-related disputes in an informal manner that is simple, rapid, less litigious and less costly.

Performance will be monitored by:

- ensuring that services are available to informally resolve transportation-related disputes in a manner that is simple, rapid, less litigious and less costly;
- ensuring that hearings are held expeditiously and informally;
- the timely disposition of review and appeal hearings within service standards;
- ensuring that hearings are being conducted in accordance with the rules of fairness and natural justice;
- the use of pre-hearing conferences to streamline and expedite the hearing process;
- the quality and consistency of decision-making; and
- a level of satisfaction by the transportation community.

2) Business Continuity Plan

The Government Security Policy requires that critical services and associated assets must remain available in order to assure the health, safety, security and economic well-being of Canadians, and the effective functioning of government. This requires departments and agencies to establish a Business Continuity Plan.

Critical functions are essential services to the public which, if interrupted, could threaten the security of Canadians or result in the loss of business with serious financial or economic impacts or consequences.

To this end, the Tribunal plans to:

- develop a business continuity plan; and
- develop the necessary tools to maintain its business continuity plan readiness.

The results will be:

- plans, measures and arrangements will be in place to ensure the continuous delivery of critical services, which permits the organization to recover its data and assets; and
- the necessary resources will have been identified to support business continuity, including personnel, information, equipment, financial allocations, infrastructure protection and accommodations.

Performance will be measured by:

- having a policy and procedures in place to ensure that critical functions are available when needed;
- updating and testing the plans; and
- ensuring compliance with Treasury Board standards.

3) Increase awareness of the Transportation Appeal Tribunal of Canada with respect to its mission, mandate, role and results achieved.

To this end, the Tribunal plans to:

- implement ongoing enhancements and improvements to the Tribunal Web site to ensure and continue to provide an accessible and comprehensive source of information about services and the hearing process.

The results will be:

- improved awareness and better information among the transportation community and key stakeholders with respect to the Tribunal's mandate and services.

Performance will be monitored by:

- evaluating the feedback from members and stakeholders at seminars and training sessions;
- making Tribunal decisions available to the public.

Improving Management Practices

The Tribunal will continue to work in partnership with three other small quasi-judicial agencies: the Canadian Artists and Producers Professional Relations Tribunal, the Copyright Board and the Competition Tribunal ("cluster group") on implementing government-wide initiatives and continuing valuable work on those initiatives already implemented. The Tribunal also works collaboratively with other networks such as the Small Agency Transition Support Team for expertise related to human resources issues, and the Micro and Small Agency Labour Management Consultation Committee to ensure adherence to the *Public Service Labour Relations Act*.

Social Union Framework Agreement

The Transportation Appeal Tribunal of Canada represents the only forum for ensuring that the document holders have access to an independent assessment governed by considerations of natural justice. There are approximately 83 847 licensed aviation personnel, 34 858 rail personnel in Canada and approximately 28 737 registered aircraft and 3 000 locomotives in service. Because of this volume, the number of infractions will rise. The level of enforcement action is entirely controlled by Transport Canada, which in turn determines the workload of the Tribunal. The Tribunal is also affected by the Department's rewrite of its aviation, rail and marine regulations, including the designation of a large number of offences under the designated provisions set out in the *Canadian Aviation Regulations*, the *Marine Transportation Security Act*, the *Railway Safety Act and the Canada Shipping Act 2001*.

Last year, the Tribunal's jurisdiction was increased to include the *International Bridges and Tunnels Act*. It is anticipated that regulations relating to the marine sector will be in effect in the last quarter of the current fiscal year. As well, additional legislation respecting airports will be implemented over the next few years that will have the effect of increasing the number of offences under the designated provisions which in turn will affect the workload of the Tribunal.

On the prediction of an increased caseload of as much as 50 percent with the Tribunal's expansion to include the marine sector, the Tribunal will need additional funding to sustain its multi-modal mandate. The most significant upcoming challenge for the Tribunal will be its expansion as a multi-modal transportation tribunal. The reorganization of the Tribunal will increase the overall workload and require expansion of capacity in new areas of expertise: more members will have to be appointed and trained. Existing employees will likely require additional training, and more staff will have to be hired to ensure that current efficiencies will be maintained.

Section II: Analysis of Program Activity by Strategic Outcome

2.1 Detailed Analysis of Program Activity

Strategic Outcome

The strategic outcome of the Tribunal is to provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation Acts reviewed by an independent body.

Review and Appeal Hearings

The objective is to provide for the operation of an independent Tribunal to respond to requests from the transportation community for review of enforcement and licensing decisions taken by the Minister of Transport under the *Aeronautics Act*, the *Canada Transportation Act*, the *Railway Safety Act, the Marine Transportation Security Act and the Canada Shipping Act 2001*, and to conduct hearings into such appeals.

Financial Resources
(Thousands of dollars)

2008-2009	2009-2010	2010-2011
1 334.0	1 334.0	1 334.0

Human Resources
Full-time equivalent (FTEs)

2008-2009	2009-2010	2010-2011
12	12	12

The Tribunal's only activity is the provision of an independent review process for aviation, rail and marine by providing document holders with the opportunity to proceed with a hearing. The Tribunal represents the only forum ensuring that document holders have access to an independent assessment governed by considerations of natural justice. Its role does not overlap with, nor is it duplicated by, any other agency, board or commission. It is unique in the transportation sector in that its function is entirely adjudicative.

The Minister's enforcement and licensing decisions may include the imposition of monetary penalties or the suspension, cancellation, refusal to issue or refusal to renew documents of entitlement for reasons of incapacity or other grounds. The person or corporation affected is referred to as the document holder.

All hearings are held expeditiously and informally, according to the rules of fairness and natural justice. At the conclusion of a hearing, the Tribunal may confirm the Minister's decision, substitute its own decision, or refer the matter to the Minister for reconsideration.

In conducting its reviews of enforcement and licensing decisions of the Minister of Transport, the Transportation Appeal Tribunal of Canada provides a public interest program that is unique to transportation in Canada. The Tribunal's efficiencies provide visible validation and confirmation of Canada's transportation safety system. Moreover, the Tribunal process is able to quickly identify concerns in the transportation sector of a technical or legislative nature, leading to necessary amendments to legislation for the benefit of all Canadians through the enhancement and maintenance of transportation safety in Canada.

The program's effectiveness can be measured by its ability to provide the transportation community with the opportunity to have ministerial decisions reviewed fairly, equitably and within a reasonable period of time. Tribunal hearings are readily accessible to the lay person without the attendant legal complexities and case backlogs which were visited upon the court system that prevailed prior to the creation of this Tribunal and its predecessor, the Civil Aviation Tribunal.

Section III: Supplementary Information

3.1 Departmental Link to Government of Canada Outcome Areas

The whole of government framework was introduced in *Canada's Performance 2002*, and has evolved through departmental consultations over the years.

The framework provides a structural "logic model" for the Government of Canada - mapping the contributions of departments, agencies and Crown corporations that receive appropriations to a set of high-level Government of Canada outcome areas.

To achieve its strategic outcome, the Tribunal identified three strategic priorities in its *Report on Plans and Priorities*. The following table outlines the Tribunal's strategic outcome and alignment to Government of Canada outcomes.

(Thousands of dollars)

Strategic Outcome: To provide the Canadian transportation community with the opportunity to have administrative or enforcement actions under federal transportation Acts reviewed by an independent body.					
	Expected Results	Planned Spending			Alignment to Government of Canada Outcome Area
		2008-2009	2009-2010	2010-2011	
Review and appeal hearings	High quality Tribunal hearing information readily accessible to the lay person without the attendant legal complexities and case backlogs	1 334.0	1 334.0	1 334.0	Safe and secure communities

More information regarding the whole of government framework is available at the following address: http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/mrrsp-psgrr/wgf-cp_e.asp.

3.2 Services Received Without Charge

(Thousands of dollars)	**2008-2009**
Accommodation provided by Public Works and Government Services Canada	170.6
Contributions covering employer's share of employees' insurance premiums and expenditures paid by Treasury Board of Canada Secretariat (excluding revolving funds)	55.1
2008-2009 services received without charge	**225.7**

Section IV: Other Items of Interest

Transportation Appeal Tribunal of Canada	Publications
333 Laurier Avenue West Room 1201 Ottawa, Ontario K1A 0N5 Telephone: 613-990-6906 Fax: 613-990-9153 e-mail: info@tatc.gc.ca Internet Web Site: http://www.tatc.gc.ca Faye Smith – Chairperson Vacant – Vice-Chairperson Mary Cannon – Registrar (Ontario, Prairie and Northern and Pacific Regions) Monique Godmaire – Registrar (Headquarters, Quebec and Atlantic Regions) Suzanne Lagacé – Communications Manager Carl Poulin – Executive Services Manager	• Performance Report - March 31, 2007 • Annual Report 2006-2007 • Guide for Applicants • The Transportation Appeal Tribunal of Canada: pamphlet

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